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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,769	10/13/2000	Steven A. Weiss	28265-PA	1069
37095	7590	01/25/2005	EXAMINER	
BERNHARD KRETEN, ESQ & ASSOCIATES 1331 GARDEN HIGHWAY SUITE 300 SACRAMENTO, CA 95833			ASHBURN, STEVEN L	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/687,769	WEISS, STEVEN A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven Ashburn	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Response to Arguments**

In view of the Appeal Brief filed on October 6, 2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options: (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or (2) request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### **Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 7 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The analysis of whether an invention is non-statutory is a two-prong test. First, the claimed invention must be within the technological arts. Mere ideas in the abstract that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. Second, the claimed invention must produce a useful, concrete, and tangible result. *See, State Street Bank and Trust Co. v. Signature Financial Group Inc.*, 149 F.3d at 1373, 47 USPQ2d at 1601-02 (Fed. Cir. 1998). A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. *See In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed

Art Unit: 3714

*Cir. 1994*). In this case, the claimed invention fails to produce a useful, concrete, and tangible result because it merely rearranges abstract data. Thus, the claims are rejected as non-statutory.

**Claim Rejections - 35 USC § 103**

**Claims 1, 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny, U.S. 6,381,583 B1 (Apr. 30, 2002) in view of ‘Casino Aztar’, Casino Aztar, Evansville Indiana (1999) (hereinafter “Aztar”).**

Kenny discloses an interactive system for creating a virtual facility from an actual facility, such as a grocery store, restaurant, or office. *See abstract*. A customer at a remote computer can move through the virtual facility and see replicas of what would be seen in moving through the actual facility. *See id*. The invention is applicable to any provider of goods or services where customers typically go to an actual shop, office or other physical facility. *See col. 4:44-63*. Any type of environment may be depicted including one comprised of business machines. *See col. 5:7-13*. The particular limitations of the applicant’s claims are discussed below.

Claims 1, 7 and 10: Kenny describes posting information about a plurality of devices on a wide area network (WAN); posting on the WAN information about particular promotions, goods and services; replacing promotions, goods and services with new ones; and allowing a prospective customer access from a remote location to search as a function of good or services type, individual customer status. *See fig. 1, 3-6, 9-10B; col. 1:40-56, 4:44-63, 5:7-13*. Kenny teaches all the limitations of the claims except having the facility be a casino where the facility’s products are gaming devices, contests and awards. Regardless, these features would have been obvious to one of ordinary skill in the art of gaming in view of Aztar.

Art Unit: 3714

Azter describes an Internet website for a casino whereat players may research the casino's products including its gaming devices, contests and awards. In view of Azter, it would have been obvious to a gaming artisan at the time of the invention to modify Kenny to add the features of providing information about a casino's gaming devices, contests and awards. As taught by Kenny, the modification would increase customer loyalty by providing exact descriptions of the casino's products, and enabling customers to become familiar with the products and changes at the actual facility. *See col. 1:57-65*. In addition, the modification would enhance convenience for customers by allowing them to obtain information about products and services located at the actual casino in advance of a visit. *See col. 1:15*.

Claim 8. Kenny discloses posting new machines and products on a wide area network. *See col. 8:52-58*.

**Claims 2, 6, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of Aztar, as applied to claims 1, 7 and 10 above, in further view of Letovsky et al., U.S. Patent Application 2002/0147047 (Oct. 10, 2002).**

The gaming system suggested by Kenny in view of Aztar does not describe allowing a gaming proposition to be played remotely on a customer's computer and rewarding success. Letovsky discloses an analogous system wherein remote customers participate in a gaming proposition remotely on the customer's computer and are rewarded for success. *See fig. 1-5*. In view of Letovsky, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming system suggested by Kenny in view of Letovsky, wherein customers can remotely interact with actual gaming machines at a casino, to add the feature of allowing the customers to participate the gaming propositions on the customer's computer and be rewarded for their success. As suggested by Letovsky, the modification would enhance the system by enabling operators to offer gaming to players at remote

Art Unit: 3714

locations without the need to develop new software or obtain additional regulatory approval, allow remote players to participate in games they trust, and generate greater revenue for the operator. *See ¶¶ 5, 6.*

Claim 6. Kenny discloses providing updates machines and products under the aegis of the facility. *See col. 8:52-58.*

**Claims 3, 4, 9, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of Aztar and Letovsky, as applied to claim 2 above, in further view of Golden et al., U.S. 5,761,648 (Jun. 2, 1998).**

Claims 3, 9, 11 and 14: The gaming system suggested by Kenny in view of Aztar and Letovsky does not describe the use of digital vouchers. Regardless, this feature was known in the art at the time of the invention and would have been obvious to an artisan. For example, Golden discloses an analogous system for performing transactions over a network which issues customers digital vouchers. In view of Golden, it would have been obvious to an artisan at the time of the invention to modify the gaming system suggested by Kenny in view of Aztar and Letovsky, wherein player awards are transmitted to a player's account, to transfer the awards to players using digital vouchers. As taught by Golden, the modification would enhance the system allowing the operator to control the use, tracking, selection and redemption of the awards. *See col. 1:51-64.* Furthermore, using vouchers would allow the operator to use the awards a promotional means for its goods and services. *See id.*

Claims 4 and 13: Golden describes rewarding success by transporting a manifestation commemorating success to a player designated locale. *See col. 4:8-39.*

Claim 5: Golden describes allowing redemption of an award in person. *See fig. 1.*

Art Unit: 3714

Claim 15. Letovsky discloses posting information about potential promotions, contests and awards on a WAN, to add the feature of displaying awards, contests and promotions in the casino on a gaming machine. *See fig. 1-5.*

### **Response to Arguments**

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new grounds of rejection.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 571-272-4445. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 571-272-4119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.

Art Unit: 3714

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JESSICA HARRISON  
PRIMARY EXAMINER

A handwritten signature in black ink, featuring a large, stylized 'X' followed by 'M. Thai'.

XUAN M. THAI  
PRIMARY EXAMINER

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